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Serial: NPD-NRC-2016-003
January 7, 2016

christopher.fallon@duke-energy.com

10CFR52.80

U.S. Nuclear Regulatory Commission
Attention: Document Control Desk
Washington, D.C. 20555-0001

**LEVY NUCLEAR PLANT, UNITS 1 AND 2
DOCKET NOS. 52-029 AND 52-030
DEPARTMENT OF THE ARMY PERMIT**

Ladies and Gentlemen:

Please find enclosed for the Docket the "Department of the Army Permit" issued for the Levy Nuclear Project under cover dated December 30, 2015 (without attachments listed on pages 23 and 24 of 24).

Please direct any correspondence or questions associated with this submittal to Paul Snead at (980) 373-2854.

Sincerely,

Robert Kitchen
Director - Nuclear Licensing
Nuclear Development

Enclosure:

- 1) Department of the Army Permit No: SAJ-2008-00490-SP-EPS issued for the Levy Nuclear Project under cover letter dated December 30, 2015. (without attachments listed on pages 23 and 24 of 24)

cc: U.S. NRC Region II, Regional Administrator (w/o Enclosure)
Mr. Donald Habib, U.S. NRC Project Manager (w/o Enclosure)
Ms. Mallecia Sutton, U.S. NRC Environmental Project Manager (w/Enclosure)

D094
NRD



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
41 N. JEFFERSON STREET, SUITE 301
PENSACOLA, FLORIDA 32502

December 30, 2015

REPLY TO
ATTENTION OF

Regulatory Division
North Permits Branch
Pensacola Permits Section
SAJ-2008-00490 (SP-EPS)

Duke Energy Florida, Inc.
c/o Christopher Fallon
526 South Church Street
Mailcode EC12L
Charlotte, NC 28202

Dear Mr. Fallon:

The U.S. Army Corps of Engineers (Corps) is pleased to enclose the Department of the Army permit, which should be available at the construction site. Work may begin immediately but the Corps must be notified of:


- a. The date of commencement of the work,
- b. The dates of work suspensions and resumptions of work, if suspended over a week, and
- c. The date of final completion.

This information should be mailed to the Enforcement Section of the Regulatory Division of the Jacksonville District at 41 North Jefferson Street, Suite 301, Pensacola, FL 32502. The Enforcement Section is responsible for inspections to determine whether Permittees have strictly adhered to permit conditions.

IT IS NOT LAWFUL TO DEVIATE FROM
THE APPROVED PLANS ENCLOSED.

If you have any questions concerning this application, you may contact Ed Sarfert in writing at the letterhead address, by electronic mail at edward.p.sarfert@usace.army.mil, or by telephone at 850-439-9533.

Sincerely,

for Kelly Kinard

Donald W. Kinard
Chief, Regulatory Division

Enclosures

| | | | |
|---|--|------------------------------------|-------------------------|
| Applicant: Duke Energy Florida, Inc. | | File Number: SAJ-2008-00490 | Date: 12/30/2015 |
| Attached is: | | See Section below | |
| | INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission) | A | |
| X | PROFFERED PERMIT (Standard Permit or Letter of permission) | B | |
| | PERMIT DENIAL | C | |
| | APPROVED JURISDICTIONAL DETERMINATION | D | |
| | PRELIMINARY JURISDICTIONAL DETERMINATION | E | |

SECTION II - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/CECW/Pages/red_materials.aspx or Corps regulations at 43 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

DEPARTMENT OF THE ARMY PERMIT

Permittee: Duke Energy Florida, Inc.
c/o Christopher Fallon
526 South Church Street
Mailcode EC12L
Charlotte, NC 28202

Permit No: SAJ-2008-00490-SP-EPS

Issuing Office: U.S. Army Engineer District, Jacksonville

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the U.S. Army Corps of Engineers (Corps) having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: To construct the Levy Nuclear Project (LNP) electrical generation facility, and various associated, integral project components, including electrical transmission lines and substations, access roads, a barge slip and boat ramp at the Cross Florida Barge Canal (CFBC), cooling tower make-up water pipeline (approximately 3 miles in length) with an intake structure at the CFBC, and water (blowdown) pipelines (approximately 13 miles in length) with discharge of cooling water at the discharge canal located within the Crystal River Energy Complex (CREC). Approximately 180 miles of transmission lines will be constructed to incorporate the electrical power generated by LNP into the Florida electrical grid system. The proposed transmission corridors will be located primarily within or adjacent to DEF's existing high voltage transmission lines. A water desalination plant can be accommodated within the plant facility, if such a plant is determined by the Corps to be needed to provide an alternative source of water to replace groundwater withdrawals. A total of approximately 690 acres of jurisdictional wetlands will be directly impacted by the project. Approximately 67 acres of jurisdictional wetlands that will be directly, but temporarily impacted by the discharge of fill material for the construction of the plant facility will be restored to pre-project wetland elevations and vegetation cover. These 67 acres of temporary impacts are included in the 690-acre total of direct wetland impacts, and, like the permanent impacts, will also be offset by permanent compensatory mitigation. An additional approximately 3.1 acres of area within surface waters will also be impacted through dredging/trenching; these 3.1 acres are unvegetated. Therefore, a total of 623 acres of jurisdictional wetlands will be directly and permanently impacted by the project. An additional 220.9 acres of

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wetlands will be indirectly impacted by the project; compensatory mitigation will also offset the loss of wetland function in these indirectly affected areas. The work described above is to be completed in accordance with the 810 pages of drawings [and 18 additional attachments] affixed at the end of this permit instrument. The Permittee must avoid the remaining wetlands associated within the LNP facility and its various ancillary components, located within the project boundary, as shown on Page 1 (Figure 1) of the Permit Drawings (Attachment A), which are not authorized to be directly impacted by this permit.

Project Location: The LNP site is located in Levy County, north of the CFBC and east of U.S. Highway 19, and is approximately seven miles inland from the Gulf of Mexico and eight miles north of the company's CREC in Citrus County. The location of the LNP site and associated facilities are shown on the attached drawings. The LNP site and its associated components are located in the following Florida counties: Levy, Citrus, Marion, Sumter, Lake, Hernando, Pinellas, Hillsborough and Polk Counties.

Approximate Central Coordinates: (Power Block Midpoints)
Latitude 29.073597 North
Longitude 82.620778 West

Reevaluation Requests: As part of the evaluation of the application for this permit, this office identified areas where the discharge of dredged or fill material into waters of the United States must be avoided. Requests to reevaluate this permit, including requests to discharge dredged or fill material into waters of the United States located in avoidance areas, are considered at the discretion of the District Engineer in accordance with 33 CFR 325.7(a).

Permit Conditions

General Conditions:

1. The time limit for completing the work authorized ends on **28 December 2040**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a

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good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature and the mailing address of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. **Reporting Address:** The Permittee must submit all reports, notifications, documentation and correspondence required by the general and special conditions of this permit to the following address:

- a. For standard mail: U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, 41 North Jefferson St., Suite 301, Pensacola, FL 32502.
- b. For electronic mail CESAJ-ComplyDocs@usace.army.mil (not to exceed 10 MB).
- c. The Permittee must reference this permit number, SAJ-2008-00490 (SP-EPS), on all submittals.

2. **Notice of Permit:** The Permittee must complete and record the Notice(s) of Department of the Army Permit (Attachment B) with the Clerk of the Circuit Court, Registrar of Deeds or other appropriate official charged with the responsibility of maintaining records of title to or interest in real property with the counties within

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which any of the authorized activity is located. Within 90 days from the effective date of this permit the Permittee must provide a copy of the recorded Notice(s) of Permit to the Corps clearly showing a stamp from the appropriate official indicating the book and page at which the Notice of Permit is recorded and the date of recording.

3. Commencement and Completion Notifications: The Permittee must provide written notification to the Corps within 10 days from the date of:

- a. initiating each phase of work authorized by this permit (1. Plant site and associated facilities, 2. Transmission Lines, 3. Blowdown pipeline, 4. Barge slip); and,
- b. the completion of all work authorized by this permit.

4. As-Built: Within 60 days of completion of each component of the authorized work (1. Plant site and associated facilities, 2. Transmission Lines, 3. Blowdown pipeline, 4. Barge slip) in this permit, the Permittee shall submit as-built drawings of that component of authorized work and a completed As-Built Certification Form (Attachment C) to the Corps. The drawings shall be signed and sealed by a registered professional engineer and include the following:

- a. A plan view drawing of the location of the authorized work footprint (as shown on the permit drawings) with an overlay of the work as constructed in the same scale as the attached permit drawings (8½-inch by 11-inch). The drawing should show all "earth disturbance," including wetland impacts, water management structures, and any on-site mitigation areas.

- b. List any deviations between the work authorized by this permit and the work as constructed. In the event that the completed work deviates, in any manner, from the authorized work, describe on the As-Built Certification Form the deviations between the work authorized by this permit and the work as constructed. Clearly indicate on the as-built drawings any deviations that have been listed. Please note that the depiction and/or description of any deviations on the drawings and/or As-Built Certification Form does not constitute approval of any deviations by the U.S. Army Corps of Engineers.

- c. The Department of the Army Permit number.

- d. Include pre- and post-construction aerial photographs of the project site, if available.

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5. Regulatory Agency Changes: Should any other regulatory agency require changes to the work authorized or obligated by this permit, the Permittee is advised that a modification to this permit instrument is required prior to initiation of those changes. It is the Permittee's responsibility to request a modification of this permit from the Pensacola Regulatory Office.

6. Erosion Control: Prior to the initiation of any work authorized by this permit, the Permittee must install erosion control measures along the perimeter of all work areas to prevent the displacement of fill material outside the work area. Immediately after completion of the final grading of the land surface, the Permittee must stabilize all slopes, land surfaces, and filled areas using sod, degradable mats, barriers, or a combination of similar stabilizing materials to prevent erosion. The Permittee must maintain erosion control measures until all authorized work has been completed and the site has been stabilized.

7. Fill Material: The Permittee must use only clean fill material for this project. The fill material must be free from items such as trash, debris, automotive parts, asphalt, construction materials, concrete block with exposed reinforcement bars, and soils contaminated with any toxic substance, in toxic amounts in accordance with Section 307 of the Clean Water Act.

8. Turbidity Barriers: Prior to the initiation of any of the work authorized by this permit the Permittee must install floating turbidity barriers with weighted skirts that extend to within one foot of the bottom around all work areas that are in, or adjacent to, surface waters. The turbidity barriers must remain in place and be maintained until the authorized work has been completed and all erodible materials have been stabilized.

9. Cultural Resources and Historic Properties:

a. No structure or work must adversely affect impact or disturb properties listed in the National Register of Historic Places (NRHP) or those eligible for inclusion in the NRHP.

b. *Cultural Resources Work Plan for the Proposed Levy Nuclear Plant Project, Levy, Citrus, Marion, Hernando, Sumter, Polk, Hillsborough, and Pinellas Counties, Florida (April 2011)*, Southeastern Archaeological Research, Inc (Work Plan) (Attachment D).

1. Prior to the start of any construction work or ground disturbing activities associated with any of the individual project components, as listed and identified in Table 1 of the *Work Plan*, the Permittee must implement the *Work*

Plan to conduct a Phase I Cultural Resource Assessment Survey to identify any unknown archaeological sites and historical properties within the individual project component. The individual project components, as identified and listed in Table 1, include the transmission lines, the blowdown pipeline, site access/wetland mitigation parcels, and training site parcel.

2. The Permittee must provide three (3) bound copies of the survey report, and three (3) CDs of the survey report of the Phase I Cultural Resource Assessment Surveys to the U.S. Army Corps of Engineers (Corps) Regulatory Project Manager. The Project Manager must distribute the reports and CDs to the appropriate parties.

3. No construction work or ground disturbing activities associated with any one of the individual project components, as listed and identified in Table 1 of the *Work Plan*, may proceed until a written release is issued to the Permittee by the Corps that the requirements of Section 106 of the National Historic Preservation Act have been fulfilled for the individual project component for which the Permittee seeks to commence any construction work or ground disturbing activities.

c. If during the ground disturbing activities and construction work within the permit area, there are archaeological/cultural materials encountered which were not the subject of a previous cultural resources assessment survey (and which must include, but not be limited to: pottery, modified shell, flora, fauna, human remains, ceramics, stone tools or metal implements, dugout canoes, evidence of structures or any other physical remains that could be associated with Native American cultures or early colonial or American settlement), the Permittee must immediately stop all work and ground-disturbing activities within a 100-meter diameter of the discovery and notify the Corps within the same business day. The Corps must then notify the Florida State Historic Preservation Officer (SHPO) and the appropriate Tribal Historic Preservation Officer(s) (THPO(s)) to assess the significance of the discovery and devise appropriate actions.

d. Additional cultural resources assessments may be required of the permit area in the case of unanticipated discoveries as referenced in accordance with the above Special Condition; and if deemed necessary by the SHPO, THPO(s), or Corps, in accordance with 36 CFR 800 or 33 CFR 325, Appendix C (5). Based on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. Such activity must not resume on non-

federal lands without written authorization from the SHPO for finds under his or her jurisdiction, and from the Corps.

e. In the unlikely event that unmarked human remains are identified on non-federal lands, they will be treated in accordance with Section 872.05 Florida Statutes. All work and ground disturbing activities within a 100-meter diameter of the unmarked human remains must immediately cease and the Permittee must immediately notify the medical examiner, Corps, and State Archeologist within the same business day. The Corps must then notify the appropriate SHPO and THPO(s). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. Such activity must not resume without written authorization from the State Archeologist and from the Corps.

10. The Permittee must control invasive and exotic plant species within all impact or disturbed areas on the plant site, haul road, blowdown pipeline route, and within the transmission line corridors subject to this permit in accordance with the *Levy Nuclear Plant Project, Invasive and Exotic Species Management Plan (November 2011)* (Attachment E). The Permittee must continue to control invasive and exotic plant species within mitigation areas in accordance with the *Levy Nuclear Plant and Associated Transmission Lines Wetland Mitigation Plan (LNPWMP)* (Attachment P)).

11. Temporary Wetland Impacts: The approximately 67 acres of temporarily impacted wetlands, must be restored in accordance with the most recent version of the *Levy Nuclear Plant Project Temporary Impact Restoration Plan* found as Attachment F, and as Appendix A to the LNPWMP. (Attachment P). For authorized temporary impacts involving fill discharges, the Permittee shall completely restore wetland grades in those areas within 30 days from the date of completing the authorized work adjacent to the temporary fill impact. All other activities related to restoration of temporary impacts must occur in accordance with the most recent version of the *Levy Nuclear Plant Project Temporary Impact Restoration Plan*.

12. The Permittee must use restrictive techniques when clearing and maintaining wetland vegetation in the transmission line right of way. The Permittee must clear wetlands with a chain saw, low-ground pressure shear, or rotary machines to reduce soil compaction and damage to vegetation. The Permittee may use these methods alone or in combination as needed for specific sites. The Permittee must not remove vegetation with an expected mature height of less than 12 feet. The Permittee may cut trees as low as possible (ground line) or to

existing water level. The Permittee must leave stumps in place to preserve the root mat and may treat stumps with an approved herbicide to prevent regrowth. The Permittee must remove all trees and debris from the right of way and dispose the trees and debris offsite or on onsite upland areas depending on landowner restrictions. The Permittee must remove cut material from the wetland area using either low ground pressure equipment or temporary construction matting. The Permittee must maintain the existing wetland contours by minimize rutting and the disturbance of the root mat.

13. The Permittee must implement the Best Management Practices (BMPs) for construction-related dewatering activities at the LNP site, as described in Attachment G. A copy of these BMPs, as approved by FDEP and SWFWMD, must be submitted to the Corps at the address provided in special condition 1, no later than three months prior to the commencement of any dewatering activities at the LNP site.

14. Groundwater withdrawals from the LNP Well Field:

a. The Permittee must implement the two following plans, according to the schedules provided in the plans:

1) *Levy Nuclear Plant Well Field Aquifer Performance Testing Plan, May 2012 (Attachment H).*

2) *Levy Nuclear Plant Well Field Environmental Monitoring Plan, September 2013 (EMP) (Attachment I).*

b. The Permittee must submit copies of all reports required by the two plans identified in 14.a to the Corps at the reporting address identified in special condition 1.

c. As described in and as required by the Adaptive Management section (4.0 Adaptive Management, pages 27 through 30) of the EMP, if specific hydrological thresholds in the EMP are not met, DEF must implement a tiered series of adaptive management strategies to restore water levels. If the various adaptive management strategies fail, or if changes described in the EMP are detected in wetlands that would be monitored, as required by the EMP, DEF must make a full transition to desalination as the Alternative Water Source (AWS) for plant operations, within one year of the determination by the Corps that the transition to AWS is required.

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PERMITTEE: Duke Energy Florida, Inc.
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15. Navigation Signs - Blowdown pipeline crossing at the Cross Florida Barge Canal: The permittee must install and maintain signs at the shoreline to notify navigational interests of the location of subaqueous utility and transmission lines (see project drawings, Figure 11, Sheet 1, Note #2).

16. NOAA Notification - Blowdown pipeline crossing at the Cross Florida Barge Canal: Where the proposed subaqueous utility or transmission line is to be installed in navigable waters of the United States, at least 2 weeks prior to the start of the authorized work, the Permittee must notify the National Oceanic and Atmospheric Administration (NOAA) and the Corps in writing that the work is commencing; and, again, immediately upon completion of the work. The Permittee must notify the District Engineer in writing at the address, as specified in special condition 1, and the NOAA, either in mailed correspondence to Nautical Data Branch Office of Coast Survey N/CS26, 1315 East-West Highway, Silver Spring, MD 20910-3282 or by electronic mail correspondence, with scans of the requisite documents attached, through osc.ndb@noaa.gov. The post-construction notification must include "as-built plans", signed and sealed by a registered surveyor/engineer licensed in the State of Florida, that certify the project is constructed as authorized; and, must include an accurate depiction of the location and configuration of the completed activity in relation to the mean high water of the navigable water.

17. Aerial Transmission Line Crossings: Where the proposed aerial transmission line is to be installed in navigable waters of the United States, as listed below, at least two weeks prior to the start of the authorized work, the Permittee must notify the National Oceanic Atmospheric Administration (NOAA) and the Corps' office in writing within 2 weeks that the work is commencing, and again immediately upon completion of the work. The Permittee must notify the District Engineer in writing at the address, as specified in special condition 1, and the NOAA at Nautical Data Branch N/CS26, Station 7317, 1315 East-West Highway, Silver Spring, MD 20910-3282, or by e-mail to ocs.ndb@noaa.gov. This notification will include "As-Built plans," signed and sealed by a registered surveyor/engineer licensed in the State of Florida, that certify the project is constructed as authorized, and must include an accurate (within plus or minus 1 foot) depiction of the location and configuration of the completed activity in relation to the mean high water of the navigable water.

18. Assurance of Navigation and Maintenance: If future operations by the United States require the removal, relocation, or other alteration, of the structures or work herein authorized, or if in the opinion of the Secretary of the Army or his authorized representative, said structure or work causes unreasonable

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obstruction to the free navigation of the navigable waters, the Permittee must, upon written notice from the Corps of Engineers remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States without claim against the United States on account of any such removal, relocation, or alteration.

19. Permitted Activities within the Cross Florida Greenway (CFG): The Permittee must obtain easements from the State of Florida for all activities subject to this Department of the Army permit located within the Cross Florida Greenway. The easements must demonstrate that the activities are consistent with Title 16 United States Code Section 460tt-Cross Florida Barge Canal. The Permittee must provide copies for the Corps' review, of all such easements granted by the State of Florida to DEF. The Permittee may not commence any of the activities within the CFG subject of this Department of the Army permit, until the Corps has provided written confirmation to the Permittee that all activities in the CFG are consistent with Title 16 United States Code Section 460tt-Cross Florida Barge Canal.

20. Avian Protection Plan (APP):

a. Before the Permittee may commence with any construction activities, as authorized by this permit, the Permittee must:

1. Develop an APP approved by the U.S. Fish and Wildlife Service (FWS) and the Florida Fish and Wildlife Conservation Commission (FWC)
2. Provide to the Corps a copy of the APP and the written approvals from the FWS and the FWC of the approved APP.
3. Receive written approval from the Corps that special condition 20.a1 and 20.a2 above have been satisfied

b. The Permittee must comply with the APP approved by the FWS and the FWC.

21. Sea Turtle and Smalltooth Sawfish Conditions: The Permittee must comply with National Marine Fisheries Service's most recent version of *Sea Turtle and Smalltooth Sawfish Construction Conditions* and provided in Attachment J of this Department of the Army permit.

22. This Corps permit does not authorize the Permittee to take an endangered species, including the Florida scrub-jay (*Aphelocoma coerulescens*). In order to legally take a listed species, the Permittee must have separate authorization

under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit, or a biological opinion (BO) under ESA Section 7, with "incidental take" provisions with which you must comply). The U.S. Fish and Wildlife Service (FWS) BO, Attachment K, contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" that is also specified in the BO. The Permittee must comply with all of the mandatory terms and conditions associated with incidental take statement of the attached BO, the terms and conditions of which are incorporated by reference in this permit.

23. Wood stork (*Mycteria americana*): The Permittee must implement the three wetland compensatory mitigation projects (LNP On-Site Mitigation, Brooker Creek Preserve and Hillsborough River Mitigation Bank) to mitigate for project impacts on wood stork foraging habitat. The three mitigation projects are included in the *Levy Nuclear Plant and Associated Transmission lines Wetland Mitigation Plan (LNPWMP) (Attachment P)*, as described and required to be implemented by special condition 31.

24. Red-cockaded Woodpecker (*Picoides borealis*) Protective Measures: The Permittee must coordinate implementation of the compensatory mitigation plan in Goethe State Forest with State Forest personnel. The Permittee must avoid active red-cockaded woodpecker clusters and must conduct restoration activities outside of the nesting season (May-July).

25. Eastern Indigo Snake (*Drymarchon couperi*) Protection Measures: Prior to and during any land-clearing or construction activities associated with this project, the Permittee must comply with U.S. Fish and Wildlife Service's *Standard Protection Measures for the Eastern Indigo Snake (August 12, 2013)* and provided in Attachment L of this Department of the Army permit.

26. Florida Manatee (*Trichechus manatus latirostris*) Conditions:

a. The Permittee must comply with the *Standard Manatee Conditions for In-Water Work – 2011* provided in Attachment M1 of this permit.

b. The Permittee must comply with the *Manatee Educational Signs – March 2011* provided in Attachment M2 of this permit by installation and maintenance of approved signs within the area associated with the barge slip ramp and parking lot servicing the boat ramp. The Permittee must provide to the Corps written information showing compliance with this condition and receive written

confirmation from the Corps that the Permittee has complied with this condition prior to the use of the completed barge slip and barge slip ramp by the Permittee.

27. Sand Skinks (*Neoseps reynoldsi*): Within two years prior to any land clearing or construction, the Permittee must reassess potentially affected habitats to determine if there are any habitats suitable for sand skinks that may be affected by land clearing or construction activities. If any habitat suitable for sand skinks is identified, the Permittee must conduct surveys for sand skinks in the identified habitats. The Permittee must inform the Corps and the FWS in writing of the planned land clearing or construction activities and the results of habitat assessments and species surveys. Before the Permittee may proceed with any land clearing or construction associated with any specific project component, the Permittee must receive written confirmation from the Corps that the Permittee has provided all the information required by the Corps and FWS to assure the Permittee's compliance with this special condition and requirements under the Endangered Species Act. This condition may be implemented on an individual project component basis.

28. Brooksville bellflower (*Campunula robinisae*), Cooley's water-willow (*Justicia cooleyi*), Florida bonamia (*Bonamia grandiflora*), Florida golden aster (*Chrysopsis floridana*), longspurred mint (*Dicerandra cornutissima*), and Britton's beargrass (*Nolina brittoniana*): Within two years prior to any land clearing or construction within each area identified as suitable habitats for any of these species, the Permittee must reassess potentially affected habitats to determine if there are any habitats suitable for these species that may be affected by land clearing or construction activities. If any habitat suitable for these species is identified, the Permittee must conduct surveys for the species in the identified habitats. The Permittee must inform the Corps and the FWS in writing of the results of the habitat assessments and the species surveys and the activities the Permittee intends to conduct to either avoid or relocate affected listed plants. Before the Permittee may proceed with any land clearing or construction associated with any transmission corridor, the Permittee must receive written confirmation from the Corps that the Permittee has provided all the information required by the Corps and the FWS to ensure the Permittee's compliance with this special condition and requirements under the Endangered Species Act.

29. Biological Survey and Monitoring Plans for Cooling Water Intake and Discharge:

- a. The Permittee must implement the two following monitoring plans:

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1) *Levy Nuclear Plant and Crystal River Energy Complex Combined Discharge Survey and Monitoring Plan, November 2010 (Attachment N).*

2) *Cross Florida Barge Canal and Withlacoochee River Survey and Monitoring Plan Levy Nuclear Plant, November 2010 (Attachment O).*

b. The Permittee must provide copies of the monitoring reports for the two plans referenced above directly to the following agencies within the reporting timelines as described in the two plans:

1) U.S. Army Corps of Engineers: See special condition 1.

2) Environmental Protection Agency: Division Director Office, Water Protection Division, United States Environmental Protection Agency, Region 4, Sam Nunn Atlanta Federal Center, 61 Forsyth Street SW, Atlanta, GA 30303-8960.

3) National Marine Fisheries Service: Mr. Mark Sramek, Habitat Conservation Division, National Marine Fisheries Service, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701-5505

30. Permit conditions are permit requirements and in the case of conflicting language between the permit and its attachments, exhibits, etc., the permit language, including its special and general conditions, control.

31. The Permittee must begin implementing the *Levy Nuclear Plant and Associated Transmission Lines Wetland Mitigation Plan (September 2015) (LNPWMP)* (Attachment P) no later than the date upon which work authorized by this permit commences. The Permittee must satisfy the mitigation performance standards and maintain the mitigation in perpetuity.

- a. Once commenced, the Permittee must implement mitigation in accordance with the schedules for each mitigation site as detailed in the LNPWMP.
- b. Prior to initiating any of the work authorized by this permit, the Permittee must record conservation easements over the LNP onsite mitigation areas, in accordance with the LNPWMP and the Conservation Easement special condition of this permit. These preserved wetlands and uplands must be maintained in perpetuity in their preserved and, where applicable, restored/enhanced, conditions as described by the LNPWMP.
- c. The Permittee must submit copies of all monitoring reports as detailed in the LNPWMP to the Corps in accordance with Special Condition 1 of this permit.

32. Conservation Easements: The Permittee must record conservation easements that ensure to the Corps' satisfaction that the mitigation required by this permit to compensate for authorized impacts will be protected and maintained in perpetuity.

a. The Permittee must record conservation easements for the four LNP onsite mitigation areas identified in the LNPWMP in the public records of Levy County, Florida prior to the commencement of any of the work authorized by this permit. At the time of recordation of the conservation easements, the Permittee must provide a title insurance policy in favor of the Grantee in an amount commensurate with the market value of the property.

b. If this permit is transferred, the Permittee must submit to the Corps with notification of the permit transfer proof of delivery of a copy of the recorded conservation easement to the subsequent permittee or permittees.

c. The conservation easements must not allow the Grantee to assign its rights or obligations under this conservation easement except to another organization qualified to hold such interests under the applicable state and federal laws, including §704.06 Florida Statutes, and committed to holding this conservation easement exclusively for conservation purposes. The Grantee and the Permittee must notify the Corps in writing at least 60 days in advance of any intention to reassign the conservation easement to a new grantee or before any action is taken to amend, alter, release, or revoke the conservation easement and the Corps must approve the selection of the grantee and/or these other actions. The new grantee must accept the assignment in writing and a copy of this acceptance must be delivered to the Corps. The conservation easement must then be re-recorded and indexed in the same manner as any other instrument affecting title to real property and a copy of the recorded conservation easement furnished to the Corps.

d. The conservation easements must recognize the Corps as a third-party beneficiary, and must grant the Corps the following rights to enforce the terms and conditions of the conservation easements verbatim:

"Rights of U.S. Army Corps of Engineers (Corps). The Corps, as a third-party beneficiary, shall have the right to enforce the terms and conditions of this Conservation Easement, including:

i. The right to take action to preserve and protect the environmental

value of the Property;

ii. The right to prevent any activity on or use of the Property that is inconsistent with the purpose of this Conservation Easement, and to require the restoration of areas or features of the Property that may be damaged by any inconsistent activity or use;

iii. The right to enter upon and inspect the Property in a reasonable manner and at reasonable times to determine if Grantor or its successors and assigns are complying with the covenants and prohibitions contained in this Conservation Easement;

iv. The right to enforce this Conservation Easement by injunction or proceed at law or in equity to enforce the provisions of this Conservation Easement and the covenants set forth herein, to prevent the occurrence of any of the prohibited activities set forth herein, and the right to require Grantor, or its successors or assigns, to restore such areas or features of the Property that may be damaged by any inconsistent activity or use or unauthorized activities; and

v. The Grantor, including their successors or assigns, shall provide the Corps at least 60 days advance notice in writing before any action is taken to amend, alter, release, or revoke this Conservation Easement. The Grantee shall provide reasonable notice and an opportunity to comment or object to the release or amendment to the Corps. The Grantee shall consider any comments or objections from the U.S. Army Corps of Engineers when making the final decision to release or amend this Conservation Easement.

e. Prior to the transfer of the permit, the Permittee must notify the Corps and submit the signed transfer page to the Corps. A new deed registering the name of the transferee must be prepared, filed, and registered in the registry of property. A copy of the recorded documents must be provided to the Corps.

33. Mitigation Bank Credit Purchase: Prior to initiating the work authorized by this permit, the Permittee shall provide written verification to the Corps that federal mitigation bank credits have been purchased as follows: 9.2 freshwater forested credits from the Green Swamp Mitigation Bank, 9.8 freshwater forested credits from the Withlacoochee Mitigation Bank, and 15.9 freshwater forested

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credits from the Hillsborough River Mitigation Bank and the assumption of responsibility for the credits by each of the bank sponsors.

34. Performance Standards: To meet the objectives of the approved compensatory mitigation plan, the Permittee must achieve the specific success criteria detailed for each mitigation site as detailed in the LNPWMP at the end of the monitoring period (either 5 or 10 years depending on the requirement for that individual site) for that entire final year (either Year 5 or Year 10 depending on the requirement for that individual site) with no maintenance or other intervention in the form of eradication of undesirable vegetation, pine harvesting, or replanting of desirable vegetation during that final year of monitoring. If the performance standards have not been achieved, the Permittee must undertake an adaptive management program approved by the Corps in accordance with the Adaptive Management Special Condition of this permit.

35. Exotic and Nuisance Plant Species Control: In addition to exotic and nuisance plant species treatments to occur throughout the entire LNP site as described in Special Condition 10, (*Invasive and Exotic Species Management Plan*), the Permittee must treat exotic and nuisance plant species in accordance with the long term invasive/exotic species management plans specific to each mitigation site as described in the LNPWMP.

36. Adaptive Management: If upon review of Permittee's annual monitoring reports, the Permittee or the Corps observes that performance standards are not trending towards success or if the compensatory mitigation fails to meet one or more performance standards as described in the Performance Standards Special Condition, then the Corps will deem the compensatory mitigation for that site wholly or partially unsuccessful. Within 60 days of notification by the Corps that the compensatory mitigation is unsuccessful, the Permittee must submit to the Corps an adaptive management plan that meets the requirements of 33 CFR 332.7(c) to address the identified deficiencies, which should include any alternate or additional compensatory mitigation needed to ensure that the modified compensatory mitigation project provides the in-kind type and quantity of aquatic resource functions comparable to those described in the CMP objectives. If the unsuccessful compensatory mitigation activities result in temporal loss of wetland functions, then the Permittee must include additional mitigation to compensate for the temporal loss of wetland functions associated with the unsuccessful compensatory mitigation activities. Within 120 days of Corps approval, the Permittee must implement the adaptive management plan.

37. Mitigation Construction and Implementation Financial Assurances: No later

than 30 days prior to the initiation of the work authorized by this permit, the Permittee must execute the Corps-approved construction and implementation financial assurance documents (standby trust agreement) for on-site and off-site mitigation areas (Attachments Q) and provide a copy to the Corps. The Permittee must notify the Corps at least 120 days prior to termination or revocation of financial assurances and at least 30 days prior to modifications, amendments, and partial releases of financial assurances. The Corps may determine that the aforesaid termination, revocation, modification, amendment or partial release requires Permittee to obtain additional financial assurances.

Failure of the Permittee to comply with the Performance Standard special condition may result in the Corps requiring payment of the penal sum of the financial assurance instrument (Attachment Q) to an entity (per standby trust agreement) to remediate the site in accordance with the compensatory mitigation requirements as set forth in this permit.

38. Release of Construction and Implementation Financial Assurances: Pursuant to 33 CFR 332.3(n)(4), Construction and Implementation Financial Assurances will be released upon the successful completion and verification of all mitigation tasks, meeting of all success criteria, performance standards, and the full monitoring and reporting requirements required in the LNPWMP. If all success criteria and performance standards are not met at the end of Mitigation Year 10, Implementation Financial Assurances will not be released until the Corps determines that adaptive management and additional monitoring and reporting demonstrates shows that all success criteria have been met in compliance with the Performance Standards and Adaptive Management special conditions of this permit. Mitigation will not be released until a copy of the executed on-site and off-site mitigation areas long term financial plans have been provided to the Corps pursuant to the Long Term Financial Assurance special condition.

39. Long Term Management: The Permittee must:

- a. No later than 120 days prior to the commencement of any activities authorized by this permit instrument, submit to the Corps a draft long-term management plan for review and approval in accordance with 33 CFR 332.7(d). The Permittee must not perform any work authorized by this DA permit until the Corps approves in writing a long-term management plan and any provisions necessary for addressing long-term financial assurance.
- b. No later than 120 days prior to the initiation of long term management, a

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copy of the approved long term financial assurance instrument the Permittee must provide the Corps for review and approval to ensure the financing amounts and mechanisms remain appropriate. The Permittee may be required to revise the previous financing amounts and assurance mechanisms if they are inadequate at the time of implementation. Once approved by the Corps, a copy of the executed approved financial assurance instrument for long term management of the mitigation site must be provided to the Corps prior to or concurrent with the initiation of long term management.

- c. No later than 60 days prior to the release of Mitigation Construction and Implementation Financial Assurances and initiation of long-term management, the Permittee must propose a Long-Term Steward to the Corps for approval and within 30 days prior to the release of Mitigation Construction and Implementation Financial Assurances, the Permittee will execute the Corps-approved on-site and off-site long term financial assurance, constituting formal acceptance of the duties to operate, maintain, and fund Mitigation Areas as described above in perpetuity, and provide a copy to the Corps.
- d. The Permittee may transfer the long-term management responsibilities set forth in the long-term management plan to a land stewardship entity with a land conservation mission, such as a the State of Florida, other public agency, non-governmental organization, or private land management entity, upon review and approval by the Corps of a request to transfer such responsibilities in accordance with 33 CFR 332.7(d). The transfer must address long-term financial assurances.

40. Mitigation Release: The Permittee's responsibility to complete the required compensatory mitigation, as set forth in the Compensatory Mitigation Special Condition of this permit will not be considered fulfilled until mitigation success has been demonstrated and written verification has been provided by the Corps. A mitigation area which has been released will require no further monitoring or reporting by the Permittee; however the Permittee, Successors and subsequent Transferees remain perpetually responsible for long term management to ensure that the mitigation area(s) remain in a condition appropriate to offset the authorized impacts in accordance with General Condition 2 of this permit.

41. Mitigation projects on public lands: The Permittee must implement and maintain compensatory mitigation projects that are totally or partially located on

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the following public lands: Goethe State Forest (State of Florida), Withlacoochee State Forest (State of Florida), and Brooker Creek Preserve (Pinellas County).

- a. Prior to conducting any work authorized by this DA permit, the Permittee must provide to the Corps written confirmation from the public agency responsible for managing the public land that the public agency has authorized the Permittee to implement and maintain the compensatory mitigation on the public land required by this permit, and that the public agency grants the Corps access to the public land to inspect the compensatory mitigation for permit compliance.
- b. The Permittee must notify the Corps in writing not less than 60 days before any use is authorized on the property that is or could be incompatible with the compensatory mitigation including, but not limited to, changes in real property interests, management plans, policies or laws governing the use of the property.
- c. The Permittee must notify the Corps in writing not less than 10 days after becoming aware that the public agency authorized a use incompatible with the mitigation on the public land.
- d. The Permittee must provide alternative compensatory mitigation that is acceptable to the Corps for any losses in functions resulting from incompatible use authorized by the public agency. The Permittee must comply with any timelines, as determined by the Corps, for implementation of remedial actions required by the Corps under this special condition.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

(X) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403)

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344)

() Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413)

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.

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- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal projects.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

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Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions: General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

Paul Sneed
(PERMITTEE)

12/28/2015
(DATE)

PAUL SNEED FOR CHRISTOPHER FALLON
(PERMITTEE NAME-PRINTED)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

for [Signature]
(DISTRICT ENGINEER)
Jason A. Kirk, P.E.
Colonel, U.S. Army
District Commander

12/29/2015
(DATE)

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When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFeree-SIGNATURE)

(DATE)

(NAME-PRINTED)

(ADDRESS)

(CITY, STATE, AND ZIP CODE)

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***Attachments to Department of the Army
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1. Attachment A – Permit Drawings: 810 pages
2. Attachment B – Notice of Department of the Army Permit
3. Attachment C – As-Built Certification Form
4. Attachment D – *Cultural Resources Work Plan for the Proposed Levy Nuclear Plant Project, Levy, Citrus, Marion, Hernando, Sumter, Polk, Hillsborough, and Pinellas Counties, Florida (April 2011).*
5. Attachment E – *Levy Nuclear Plant Project, Invasive and Exotic Species Management Plan (November 2011).*
6. Attachment F – *Levy Nuclear Plant Project Temporary Impact Restoration Plan (September 2015).*
7. Attachment G – Best Management Practices (BMPs) for construction-related dewatering activities at the LNP site.
8. Attachment H – *Levy Nuclear Plant Well Field Aquifer Performance Testing Plan, May 2012.*
9. Attachment I – *Levy Nuclear Plant Well Field Environmental Monitoring Plan, September 2013.*
10. Attachment J – *Sea Turtle and Smalltooth Sawfish Construction Conditions dated March 23, 2006.*
11. Attachment K – Biological Opinion for Levy Nuclear Plants Units 1 and 2 dated December 1, 2011.
12. Attachment L – *Standard Protection Measures for the Eastern Indigo Snake (August 12, 2013).*
13. Attachment M1 – *Standard Manatee Conditions for In-Water Work – 2011.*
14. Attachment M2 – *Manatee Educational Signs – March 2011.*

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15. Attachment N – *Levy Nuclear Plant and Crystal River Energy Complex Combined Discharge Survey and Monitoring Plan, November 2010.*

16. Attachment O – *Cross Florida Barge Canal and Withlacoochee River Survey and Monitoring Plan Levy Nuclear Plant, November 2010.*

17. Attachment P – *Levy Nuclear Plant and Associated Transmission Lines Wetland Mitigation Plan (September 2015).*

18. Attachment Q – Trust Fund Agreement template

19. Attachment R – Water Quality Certification: The State of Florida's Conditions of Certification, as modified on January 25, 2011, in accordance with General Condition number 5 on page 3 of this Department of the Army permit.